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## REMARKS

113, 114  
Claims 1-34 and 66-112 are in the application.

Claims 36, 40, 41, 48-52, 54-55, 58-60 and 63-64 are amended.

## RESTRICTION REQUIREMENT

The Examiner has required cancellation of non-elected claims directed to a non-elected invention. It is respectfully submitted that this requirement is improper at this time.

MPEP § 821.01 states:

When preparing a final action in an application where there has been a traversal of a requirement for restriction, the examiner should indicate in the Office action that a complete reply must include cancellation of the claims drawn to the nonelected invention, or other appropriate action ( 37 CFR 1.144). See form paragraph 8.24.

### 8.24 Reply to Final Must Include Cancellation

This application contains claim [1] drawn to an invention nonelected with traverse in Paper No. [2]. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action ( 37 CFR 1.144). See MPEP § 821.01.

In fact, the application is not at a stage of final rejection, rather, it is only the restriction requirement which is deemed final and now appealable. Likewise, 37 C.F.R. 1.144 does not require any such cancellation of claims at this time.

Applicant appreciates the Examiner's indication that new claims 113 and 114 are restricted. While applicant traverses this requirement based on the fact that the essence of the claims is well-allied with the elected claims, and further, these claims correspond closely enough to the gist of the proposed interference that it would be administratively efficient to include them within a single proceeding. Applicant does not agree that these claims "are not within the same class of technology as the group elected for examination by applicant". These claims very much are related to the same technology, and any arbitrary classification scheme which segregates them from the elected group is believed to be an abuse of administrative discretion.

## FORMAL REJECTIONS

35 U.S.C. § 112, first paragraph

Claims 35-65 are rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one

skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Applicants respectfully submit that the application as a whole clearly discloses the claimed invention, in such manner that a person of ordinary skill in the art, at the time of the invention, could make and use the invention without undue experimentation or the exercise of inventive skill.

The Examiner, in formulating the rejection, apparently deems it unimportant to define who a person of ordinary skill in the art is. Since it is the burden of the Examiner to issue a rejection, and not of the applicant to define the terms, applicant respectfully requests specific clarification of the abilities of the hypothetical person of ordinary skill in the art, e.g., "one skilled in the relevant art".

However, the existence of this gap in the rejection does not prevent applicant from demonstrating further support in the application for the claim phrases, which are provided below, without prejudice or disclaimer with respect to applicant's right to contest the Examiner's proffered definition of "one skilled in the relevant art". In addition, applicants have corrected the examiner's rejection to properly quote the claim language.

#### Claims 35 and 40

Presenting to the user the content related records: 108:17-19; 162:7-16; 180:17-19; 184:2-8

Receiving a user feedback on said relation: 108:16-19; 166:7-9 & 17-19; 169:3-9

Updating the user profile based on said [the] feedback: 68:21-68:3; 167:2-4

#### Claims 36, 41, 47 and 55

Automatically presenting users information items of interest: 57:21-24; 66:1-5; 107:20-108:23; 160:7-21.

Storing means comprising a computer system: 160:22-161:15

Relating means comprising means for ranking the likely degree of interest: 93:12-94:11; 161:22-162:16; 165:22-167:2

Presenting the items of information to an access device in order of ranking: 162:10-13

#### Claim 37

Ranking means ranks the available items of information for a user on the basis of at least one attribute: 180:17-24; 198:20-22; 202:7; 202:18-22.

Claim 38

The attribute is the contents of the piece of information: 163:3-17; 171:1-12; 202:23

Claim 39

Said ranking means produces a formula which predicts the interest of a user in an item or information on the basis of at least one of a user profile and an attribute related to that item of information: 68:2-20; 161:16-162:16; 163:12-20.

Claim 43

The user profiles and the determined degree of interest in items of information are based upon at least one attribute associated with each item of information: 68:2-20; 161:16-162:16; 163:12-20.

Claims 48 and 56

Target server system: 162:5-7; 175:8-17

At least one target profile interest summary for a user at a user terminal, each of said user target profile interest summaries being indicative of ones of said target objects and sets of target object characteristics accessed by said user: 162:25-163:3; 165:7-169:12

Storing at said at least one user target profile interest summary in a memory: 83:20-25; 161:11-21; 163:1; 165:14-21

Claim 51

Creating content profiles: 167:13-25; 168:12-170:13

Creating at least one customer profile for each eligible recipient of said data: 107:14-19; 161:22-23; 165:7-21

Claims 52 and 60

content profiles indicating the degree of content of said predetermined characteristics in each video program: 53:21-27; 107:20-110:11; 118:1-120:2; 163:3-17

automatically update each customer's actual preferences for said predetermined characteristics: 68:21-68:3; 167:2-4

Claim 54

updating each customer profile to reflect the frequency of selection of the data sources: 85:1-2; 107:14-19; 165:14-19

Claim 57

Means for correlating: 162:17-163:17; 169:13-175:7

Means for transmitting: 108:17-19; 162:7-16; 180:17-19; 184:2-8

transmitting data, ... to said target server via a one of said data communication connections: 91:7-92:6; 163:9-20;

Claims 59 and 64

content profiles indicating the degree of content of said predetermined characteristics in data from each data source: 53:21-27; 66:15-67:4; 107:20-110:11; 118:1-120:2; 163:3-17.

35 U.S.C. § 112, second paragraph

Claims 36, 40, 41, 48-52, 54-60, 63 and 64 are rejected under 35 U.S.C. § 112, second paragraph, as being allegedly indefinite for failing to point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant appreciates the specificity of the rejections; applicants have addressed each rejection to provide proper antecedent basis for claim terms. Claim 55 has been amended to recite an independent apparatus claim.

ART REJECTION

Claims 35, 40, 47, 55, and 58 are rejected as being anticipated under 35 U.S.C. § 102 by Yourick et al., US 4,775,935, which corresponds to EP 0,265,083.

Yourick et al. relates to a system which selectively retrieves predetermined video records based on a demographic classification of a user and a set of selections made by the user during a session.

Claims 35 and 40 are distinguished from Yourick et al. in at least that Yourick et al. fails to provide: means for storing a plurality of content records (in Yourick et al., the records are prerecorded; the system only has an ability to retrieve records); means for storing a user profile (in Yourick et al., the "user profile" is not persistently stored, but rather purged immediately after use, further, the Yourick et al. system has no tolerance for inconsistency, which may be a part of a user profile, therefore, the profile is more akin to a session history, not a user profile); and means for updating the user profile based on said the feedback (since the user profile is distinguished, this element is also distinguished).

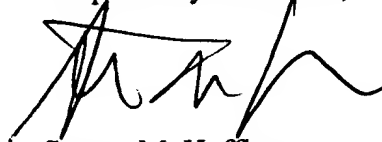
Claims 47 and 55 are distinguished from Yourick et al. in at least that Yourick et al. fails to provide: automatically generating a user profile representing an interest summary based on a

history of access to objects (as above, the user profile is distinguished); and storing the user profile in memory (the session history is not persistently stored).

Claim 58 is distinguished from Yourick et al. in at least that Yourick et al. fails to provide: a customer profile, said customer profile indicating the respective customer's preferences for data (the customer profile corresponds to a user profile, which is distinguished as above, further, the session history of Yourick et al. may not actually indicate a respective customer's preferences for data, as the algorithm may be too simplistic or error prone, or indeed seek a different goal); and means for automatically updating the customer profile in accordance with the content profiles accessed by the customer to automatically update the customer profile to represent the customer's preferences (Yourick et al. do not seek to derive a customer profile representing a customer's preferences, and indeed do not save any profile persistently, as would be required to represent the customer's preferences).

Claims 36-39, 48, 50-52, 54, 56-61 and 63 are rejected under 35 U.S.C. 103 as being obvious in view of Yourick et al. These claims are believed to be allowable on the bases discussed above with respect to the respective independent claims.

Respectfully submitted,



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